

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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| FRANCIS ERNEST FLORES, | § | |
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| Plaintiff, | § | |
| | § | |
| VS. | § | CIVIL ACTION NO. H-06-3447 |
| | § | |
| DEPARTMENT OF THE TREASURY, | § | |
| INTERNAL REVENUE SERVICE, <i>et al.</i> , | § | |
| | § | |
| Defendants. | § | |

MEMORANDUM AND ORDER

The plaintiff, Ernest-Francis Flores, filed suit in November 2006, naming as defendants the United States government and a number of employees of the Internal Revenue Service. The complaint was unintelligible. Several defendants moved to dismiss. Flores did not respond. In January 2007, this court ordered Flores to amend his complaint to bring it into compliance with the Federal Rules of Civil Procedure. When Flores did not respond, this court dismissed his complaint, with prejudice. In so doing, this court neglected to retain the counterclaim the United States had filed relating to Flores's failure to pay federal income taxes, to foreclose on federal tax liens, and to force a sale of his residence. The United States has moved to reinstate the counterclaim and to realign the parties, making the United States the plaintiff and Ernest Francis Flores, Terra Flores, and Colonial Savings, F.A., the codefendants. (Docket Entry No. 36). Flores did not respond and the other plaintiffs were unopposed.

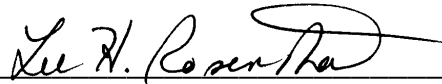
On February 27, 2007, Flores filed a “Quo-Warrento-Complaint.” This complaint is unintelligible. The government moved to dismiss this complaint or to strike it under Rule 12(f) of the Federal Rules of Civil Procedure. (Docket Entry No. 39). The government also asks this court to find Flores a vexatious litigant and enjoin him from filing more pleadings or suits without permission in advance from this court to do so. (*Id.*). The government points to filings in other courts in addition to the repeated filing of unintelligible pleadings in this case. In response, Flores filed yet another unintelligible pleading. (Docket Entry No. 40).

The government’s motion to reinstate the counterclaim and realign the parties is granted. The counterclaim is reinstated. The parties are realigned to make the United States the plaintiff and Ernest Francis Flores, Terra V. Flores, and Colonial Savings, F.A., the defendants. The complaint filed by Ernest Francis Flores remains dismissed with prejudice. The Quo-Warrento Complaints filed on February 27, 2007 and March 30, 2007 are stricken under Rule 12(f).

The United States has asked this court to preclude Flores from filing pleadings in this or other federal courts in this district without prior permission. Such a preclusion order is a sanction that courts have used in response to repeated filings of frivolous pleadings or lawsuits. Such a sanction generally requires a prior warning. *See Mendoza v. Lynaugh*, 989 F.2d 191, 195 (5th Cir.1993) (quoting *Moody v. Baker*, 857 F.2d 256, 258 (5th Cir.1988)) (“The imposition of a sanction without a prior warning is generally to be avoided.”). The motion for injunctive relief is denied at this time. However, Flores is specifically

admonished that the continued filing of unintelligible pleadings, the filing of frivolous lawsuits, or the failure to comply with court orders, may result in the imposition of sanctions, including monetary sanctions, the entry of an adverse ruling or judgment, and/or a complete bar to filing further litigation in the Southern District of Texas.

SIGNED on April 11, 2007, at Houston, Texas.

A handwritten signature in cursive script, reading "Lee H. Rosenthal", is positioned above a horizontal line.

Lee H. Rosenthal
United States District Judge